

REMARKS

Claims 1-26 and 43-45 remain pending in the application. Claims 27-42 and 46-49 were canceled without prejudice or disclaimer to expedite prosecution.

The present changes made to independent Claims 1, 10, 19 and 43 do not introduce new matter. In particular, the concept of a "boundary" between cells is not only well known in the art, but is discussed at various locations in the specification (for example, [0009], [0011], [0012], [0017], [0018], [0026], [0027] and [0034]). In particular, [0017] notes that cellular base station coverage area boundaries are the *handoff points*. Moreover, [0018] refers to *segment* boundaries, where "segment" is defined in [0019] as a "portion[] of a recurrent route bounded by transition areas between one cellular base station coverage area and another."

Because no new matter is added and because the outstanding Office Action should not have been made final, entry of the Amendment is believed to be proper at this time as a matter of right.

Based on the above Amendment and the following Remarks, Applicant requests that the examiner reconsider all outstanding objections and rejections, and withdraw them.

June 27, 2005 Interview Summary

Applicants' representative thanks the examiner for the courtesy extended during the productive telephone interview conducted on the afternoon of Monday, June 27, 2005. At present, the undersigned representative has not received any EXAMINER INTERVIEW SUMMARY, and therefore cannot verify its accuracy.

In any event, Applicants' representative believes that the interview clarified the positions of the examiner and of Applicants. The present Amendment is made pursuant to the helpful discussion during the interview, and the amended claims are believed to more clearly express the features that are believed to have distinguished over the cited reference(s) even as the claims stood before amendment.

Request to Withdraw Finality of Office Action

The May 4, 2005 Office Action was made final after Applicants' November 2004 Response which included no substantive amendment.

The May 4, 2005 Office Action *in effect* applies a new secondary reference, U.S. Patent No. 5,917,811 (Weaver, Jr. *et al.*), in rejecting dependent Claims 5-6 and 14-15.¹ Applicants' November 2004 Amendment did not necessitate the new grounds of rejection, and, accordingly, the May 4, 2005 rejection should not have been made final.

If, for the sake of argument, the rejection is interpreted as *not* including the Weaver, Jr. *et al.* patent, then the rejection of at least Claims 5-6 and 15-16 should be withdrawn since the Peterson reference does not disclose such features.

Accordingly, the present Amendment is not filed with an RCE, and Applicants respectfully request that the examiner withdraw the finality of the Office Action and provide full and fair consideration to the present Amendment as if the previous rejection were not made final.

Rejection under 35 U.S.C. § 103

The examiner has rejected all pending claims under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,845,227 (Peterson). Implicitly², the rejection combines the Peterson patent with the Weaver, Jr. *et al.* patent to reject claims 5-6 and 14-15.

Applicants respectfully traverse the rejection, amending the independent claims to more clearly emphasize limitations that were effectively present in the claims as previously pending. However, the present amendment emphasizes the **location** attributes and the cellular **handoff** recitation, as suggested by the examiner at the end of the June 27, 2005 interview. More specifically, Applicants request the examiner focus on the following recitations³:

- Applicants make explicit that the first and second identifiers uniquely identify respective first and second **cells**.

¹ May 4, 2005 Office Action at page 3, lines 10-16. The August 19, 2004 Office Action merely stated the *conclusion* that the content of Claims 5-6 and 14-15 would have been obvious. This unsubstantiated conclusion was opposed in Applicants' November 2004 Remarks in the paragraph bridging pages 10 and 11, in response to which the Weaver, Jr. *et al.* reference was subsequently cited.

² See Note 1, above.

³ Not all listed observations apply to all claims. Each claim should be interpreted based on its own specifically recited limitations.

- The first and second **locations** (or startpoint and endpoint locations in Claim 29) are clarified to be on boundaries of respective first and second cells (previously implied by the "handoff" recitation).
- The claims refer to the **location** (or estimated time of arrival, ETA, in Claim 29) of a particular mobile station, and not on the collective instantaneous velocities of a large population of vehicles as in the Peterson patent.
- Certain claims determine elapsed **time**, which in principle can be used to arrive at a **calculated average velocity** of a particular vehicle—in contrast to Peterson's *measurement* of instantaneous velocities of large populations of vehicles.
- The **location** of a particular mobile station when it is "handed off" at cell **boundaries** is used to train a mobile station location system or to calculate an ETA. Using the handoff process permits the locating system to work automatically, without a user having to confirm his location as in the Peterson patent.
- Applicants claims provide an output concerning an **individual** mobile station (location or ETA), which is nearly the opposite of Peterson's system which provides an output (traffic congestion measure) that essentially describes collective **group** behavior.
- Applicants are not claiming Cell Tower Identification Numbers or Base Station Identifiers (Claims 5-6 and 14-15) in isolation. Rather, Applicants are claiming the use of these identifiers in a particular way and **in combination with** other claim elements. Thus, the Weaver, Jr. *et al.* secondary reference does not overcome the shortcomings of the Peterson reference.
- Applicants November 2004 Remarks remain applicable, and they are incorporated herein by reference.
- More generally, Applicants urge that, if a rejection of any claim be maintained, that the reasons for the rejection not be merely *conclusory*, but be supported by specific facts (specific passages or drawing elements from references).

For at least the foregoing reasons, reconsideration and withdrawal of the rejection are respectfully requested.

The Drawings

Applicants again request that the examiner affirmatively indicate in the next written communication that the formal drawings are acceptable.

Change of Correspondence Address; New Associate Attorney


A "Change of Correspondence Address" is filed herewith. It is requested that the examiner verify that the address information has been entered into the PTO mailing system so that future communications will be mailed to the correct address.

Conclusion

All objections and rejections have been complied with, properly traversed, or rendered moot. Thus, it now appears that the application is in condition for allowance. Should any questions arise, the examiner is invited to call the undersigned representative so that this case may receive an early Notice of Allowance.

Favorable consideration and allowance are earnestly solicited.

Respectfully submitted,

By: 

Date: July 6, 2005

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